REMARKS

The October 31, 2007 Office Action regarding the above-identified application has been carefully considered; and the claim amendments above together with the remarks that follow are presented in a bona fide effort to respond thereto and address all issues raised in that Action. Several claims have been amended for clarity, and the independent claims have been amended to more clearly distinguish over prior art applied in a rejection in the latest Office Action. Unless specifically referenced in a traversal of an art rejection below, it is believed that revised claim language only provides improved grammar or clarity and as such does not narrow the scope of any amended claim. Two new dependent claims are submitted above. Care has been taken to avoid entry of new matter. For reasons discussed below, it is believed that this case is in condition for allowance. Prompt favorable reconsideration of this amended application is requested.

The Office Action included a rejection of claims 1, 2, 4, 13, 16 and 22 as indefinite, for an alleged lack antecedent basis for the claim term "restores number of simultaneous issues." In claims 1, 2 and 16, the relevant phrase has been revised to read "restores a number of simultaneous issues," which should not require antecedent basis earlier in the respective claims. The exact phrase noted in the rejection does not appear in 4, 13 and 22. The word "the" has been changed to "a" in the second line of claim 4, to avoid a possible non-sequitur with regard to maximum allowable number of simultaneous issues, and a clarification is made in the last paragraph, but it is believed that all terms of claim 4 find antecedents earlier in claim 4 or in parent claim 2. Claims 13 and 22 should be definite in their present form. For example, the recitation of "restore to said return state" in claim 13 finds antecedent basis in the third line of the next to last paragraph of parent claim 2. Similarly, the recitation of "restoring said number of simultaneous issues" in claim 22 should now find adequate antecedent basis in the last paragraph

of parent claim 2. It is therefore submitted that claims 1, 2, 4, 13, 16 and 22 are free of antecedent basis problems and are reasonably clear, concise and definite. Hence, the indefiniteness rejection of those claims should be overcome.

The October 31, 2007 Office Action included a rejection of the previous versions of claims 1, 2, 4-8 and 12-22 under 35 U.S.C. §103(a) as unpatentable over U.S. Publication No. 2003/0005135 to Inoue et al. (hereinafter Inoue) in view of newly applied U.S. Publication No. 2004/0034786 to Okamoto et al. (hereinafter Okamoto). This rejection is traversed on the ground that the teachings of Okamoto do no suggest a modification of Inoue that would result in a combination that actually satisfies all of the recitations of the amended claims listed above.

The present application discloses a system which may require a return of a license ("second license" in the claims) or permit an automatic return. In the automatic return mode, the server is capable of automatically providing a new second license (temporary license) even if a previous second license (temporary license) has not been returned from a first terminal to the server within an expiration date/time, so that the server can issue the new second license (temporary license) for a second terminal. Claim 1 for example is characterized in that:

> a return control section for determining whether or not said return mode flag indicates said automatic return and said expiration date/time for said terminal has passed, and for automatically restoring to a return state of said second license when said return mode flag indicates said automatic return and said expiration date/time for said terminal has passed, even if no second license is returned from the terminal to the server, so that said issuance unit can issue said second license for another terminal;
>
> wherein said return control section in said server restores a number of simultaneous issues of said first license when said return control section automatically restores to said return state of said second license. (additions underlined)

Similar recitations appear in the other independent claims.

The rejection acknowledges that Inoue does not disclose the second memory unit for storing information on the second license that includes an expiration date/time for said terminal

and a return mode flag which indicates automatic return or return required. The rejection also acknowledges that Inoue does not disclose the associated control function (as recited in the previous claim set) for automatically restoring the second license to a return state when the return mode flag indicates the automatic return and the expiration date/time for has passed, so that the issuance unit can issue the second license for another terminal, wherein the return control section restores the number of simultaneous issues of the first license when it automatically restores the second license to the return state. Instead, the rejection points to teachings in Okamoto and concludes that the teachings would have lead one of skill in the art to modify Inoue to meet the previous claim recitations on these points. Applicants respectfully submit that such reliance on Okamoto is misplaced.

However, Okamoto (US 2004/0034786), discloses that a return of a license ticket or "LT" (which corresponds to the second license of the present application) is controlled by using an on-usage-end return flag (which is similar to a return mode flag of the present application) as alleged by the Examiner's statements (see [0012] and [0017]-[0136]).

With regard to a return process by using the on-usage-end return flag, Okamoto discloses that the LT update unit 306a examines whether or not the present time has passed the end time, namely, the expiration time, of the LT effective period 821a, with reference to the LT effective period 821a of the target LT 80a. When the present time has passed the end time of the LT effective period 821a, it goes on to the processing in S1503. When the present time has not yet passed the end time of the LT effective period 821a, it goes on to S1502. Okamoto also states that in terminal executed step "S1503: The return flag judgment unit 307a judges whether the LT 80a needs to be returned to the right management server 20a or not with reference to the return flag 813a of the target LT 80a" (see [0186] and FIG. 15). Okamoto further discloses that in terminal executed step "S1504: When it is judged in S1503 that the LT 80a needs to be

returned to the right management server 20a, the LT return process of returning the LT 80a to the right management server 20a is executed" (see [0188] and FIG. 15). The Okamoto text also states that in terminal executed step "S1505: When it is judged in S1503 that the LT 80a does not need to be returned to the right management server 20a, the LT update unit 306a deletes the LT 80a from the LT database 302a" (see [0189] and FIG. 15). Attention also is directed to [0190-0200] and FIG. 16.

With regard to the on-usage-end return flag, Okamoto discloses that

> ...the return flag setting unit 25a sets a return flag to "return required" in at least one of the cases where the permitted number of LT issues...is a finite value and where the expiration time of the LT effective period set for the LT 80a is earlier than that of the usage right effective period, while it sets to "No return required" when the permitted number of LT issues is "∞" and the expiration time of the LT effective period is same as that of the usage right effective period. (see [0092])

Attention also may be directed to [0157]-[0160].

The "return required" state of the return flag of Okamoto, therefore, corresponds to the "return required" state of the return mode flag of Applicants' claims.

The "no return required" state of the return flag of Okamoto, however, is different from the "automatic return" state of the return mode flag of the claims, and Okamoto's operations in the "no return required" state do not meet the automatic return requirements of Applicants' claims. In Okamoto, the user terminal only deletes the license ticket if the return flag indicates "no return required". On the other hand, as claimed above, the server automatically restores to the return state of the second license and restores number of simultaneous issues of the first license if the return mode flag indicates "automatic return" when expiration date/time has passed even if the terminal has not returned its second license to the server. It is submitted that the license ticket of Okamoto is issued to the user terminal without any restriction of issued number if the return flag indicates "no return required," whereas the second license can be issued to the

terminal within a number of simultaneous issues of the first license even if the return mode flag indicates "automatic return" in the inventions claimed.

Furthermore, Okamoto discloses that the user terminal deletes the license ticket if the return flag indicates "no return required" (see [0189]). During processing of a return request (FIG. 16), presumably in the return required case where the terminal has not deleted the license ticket (see [0188]), the management server decrements by one (restores) the number of issued license tickets 2228a of the usage right 222a if the return flag indicates "return required" (see [0199]). However, Okamoto does not disclose that the management server restores the number of issued license tickets 2228a of the usage right 222a if the return flag indicates "no return required." On the other hand, with Applicants' claimed approach, the server automatically restores to a return state of said second license if said return mode flag indicates the automatic return, and thereby restores number of simultaneous issues of the first license.

Okamoto further discloses that the user terminal (the LT update unit 306a) examines whether or not the present time has passed the end time (see [0184]) and the user terminal (the return flag judgment unit 307a) judges whether the license ticket 80a needs to be returned to the right management server 20a or not (see [0188]). However, Okamoto does not disclose that the management server determines whether or not the present time has passed the end time and judges whether or not the license ticket 80a needs to be returned to the right management server 20a. Therefore, it is submitted that the management server of Okamoto cannot automatically restore the number of issued license tickets 2228a of the usage right 222a if the return flag in the server's memory indicates "no return required" and the present time has passed the end time in Okamoto. On the other hand, in the inventions of Applicants' claims, the server can automatically restore to a return state of the second license if the return mode flag in its memory (second memory in the claims) indicates that automatic return and the expiration date/time for

the terminal has passed, and thereby restores number of simultaneous issues of the first license, because the return control section of the server determines whether or not the return mode flag indicates the automatic return and determines wither or not the expiration date/time for said terminal has passed.

Okamoto, therefore, does not disclose the feature of "automatic return" of the return mode flag of present claims. The combination of Inoue and Okamoto lack the claim feature of a return control section in the server for determining whether or not said return mode flag indicates said automatic return and said expiration date/time for said terminal has passed, and for automatically restoring to a return state of said second license when said return mode flag indicates said automatic return and said expiration date/time for said terminal has passed, even if no second license is returned from the terminal to the server, so that said issuance unit can issue said second license for another terminal, and for restoring number of simultaneous issues of said first license when said return control section automatically restores to said return state of said second license" of claim 1. Hence, claim 1 patentably distinguishes over Inoue and Okamoto. Similar limitations appear in independent claims 2 and 16, therefore those claims similarly distinguish over Inoue and Okamoto. Since Inoue and Okamoto do not teach all aspects of any of the independent claims, all of the claims should be patentable over Inoue and Okamoto.

With regard to claims 19-21, the invention thereof is characterized in that the return mode flag, the return inhibit flag and the automatic return flag are set based on a result of comparing the return mode flag, the return inhibit flag and the automatic return flag of the first license, which are requested from the terminal of a user, with the return mode flag in the server, the return inhibit flag of the first license and the automatic return flag of the first license. The Detailed Action asserts that Okamoto [0191]-[0208] discloses the features of claim 19 and that

Okamoto at [0039]-[0341] discloses the features of claims 20 and 21. Applicants respectfully disagree.

Okamoto at [0191]-[0208] only discloses the operation of the LT return process, but these paragraphs do not disclose the return flag setting. Okamoto at [0339]-[0341] only discloses the operation of the content reproduction process, but the cited paragraphs do not disclose an explanation of setting the return flag. As to the return flag setting, Okamoto discloses the return flag setting unit 25a of the server sets the return flag (see [0092] and [0157]-[0160]). Okamoto, however, does not disclose that the return flag is set based on a request from the user terminal.

Okamoto, therefore, does not disclose the additional features of claims 19-21. For this additional reason, the combination of Inoue and Okamoto does not meet those claims, and these claims should be patentable.

With regard to claim 22, the invention thereof is characterized in that the return control section in the server deletes the information on the second license in the second memory unit without restoring the number of simultaneous issues of the first license, when the second license that is returned from the terminal has already been automatically returned by the server. The Detailed Action asserts that Okamoto paragraph [0163] discloses the feature of claim 22. Applicants respectfully disagree. Paragraph [0163] of Okamoto only discloses that:

> S1012: The LT acquisition unit 304a of the user terminal 30a receives the LT 80a sent in S1011, via the communication unit 312, and stores the received LT 80a in the LT database 302a. Then, the LT acquisition unit 304a notifies the user β via the GUI 313 that the acquisition of the LT 80a has completed, and ends the processing.

As shown by the above quotation, paragraph [0163] of Okamoto does not disclose that the license ticket is deleted without restoring the number of issued license tickets of the usage right, when the license ticket is returned from the user terminal to the right management server. Okamoto, therefore, does not disclose the feature of claim 22. Hence, the combination of Inoue

and Okamoto does not fully satisfy that claim and the claim further patentably distinguishes over those applied documents.

Upon entry of the above claim amendments, claims 1, 2, 4-8 and 12-24 are active in this application, all of which should be definite and patentable over the art applied in the latest Office Action. Applicants therefore submit that all of the claims are in condition for allowance. Accordingly, this case should now be ready to pass to issue; and Applicants respectfully request a prompt favorable reconsideration of this matter.

It is believed that this response addresses all issues raised in the October 31, 2007 Office Action. However, if any further issue should arise that may be addressed in an interview or by an Examiner's amendment, it is requested that the Examiner telephone Applicants' representative at the number shown below.

To the extent necessary, if any, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Keith E. George
Registration No. 34,111

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8603 KEG:apr
Facsimile: 202.756.8087
Date: February 29, 2008

Please recognize our Customer No. 20277 as our correspondence address.